### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In FE Application

Inventor(s): Steve Mitchell Appl. No.: 10/684,668

Confirm. No.: 3396

Filed:

October 14, 2003

Title: Artificial Vertebral Disk Replacement Implant with

Crossbar Spacer and Method

PATENT APPLICATION

Art Unit:

3738

Examiner:

Unknown

Customer No. 23910

#### CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on March 16, 2004.

Sheldon R. Meyer, Reg. No. 27,660 Signature Date: March 16, 2004 \_(Attorney Signature)

## INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §1.56

Commissioner for Patents PO Box 1450 Alexandria, VA 22313-1450

Sir:

It is requested that the information identified in this statement be considered by the Examiner and made of record in the above-identified application. This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in 37 CFR §1.56. If this is a continuation, divisional or continuation-in-part application, it is understood that the Examiner will consider all information which was considered by the Office in a parent application. MPEP §609. Such information therefore is not listed herein unless it is desired that the information be printed on a patent issuing from the subject application.

#### Enclosed with this statement are the following:

- X Form PTO-1449. The Examiner is requested to initial the form and return it to the undersigned in accordance with MPEP §609.
- X The present application is being/was filed after June 30, 2003. In accordance with the pre-Official Gazette waiver of 37 CFR 1.98 (a)(2)(i) posted at pac/dapp/opla/preognotice/idswouscopies.htm, copies of cited U.S. patents and publications are not enclosed. Copies of cited foreign patent documents and non-patent literature are enclosed in accordance with 37 C.F.R. §1.98(a)(2), as still required.
- The present application was filed prior to June 30, 2003. A copy of each cited document as required by 37 C.F.R. §1.98 is enclosed.

#### This statement should be considered because:

- X 37 CFR §1.97(b). This statement qualifies under 37 CFR §1.97, subsection (b) because:
  - (1) It is being filed within three months of the filing date of an application other than a continued prosecution application under §1.53(d);

-- OR --

It is being filed within 3 months of entry of a national stage; (2) -- OR --It is being filed before the mailing date of the first Office Action on the merits, (3) -- OR --(4) It is being filed before the mailing date of the first Office Action after the filing of a Request for Continued Examination under 37 CFR §1.114. 37 CFR §1.97(c). Although it may not qualify under subsection (b), this statement qualifies under 37 CFR §1.97, subsection (c) because: It is being filed before the mailing date of a FINAL Office Action, a Notice of (1) Allowance, or an action that otherwise closes prosecution in the subject application, whichever occurs first. -- AND (check at least one of the following) --(1) It is accompanied by a STATEMENT as set forth in 37 CFR §1.97(e). (2) It is accompanied by the \$180 fee set forth in 37 CFR §1.17(p). 37 CFR §1.97(d). Although it may not qualify under subsection (b) or (c), this statement qualifies under 37 CFR §1.97, subsection (d) because: (1) It is being filed on or before payment of the issue fee; -- AND --It is accompanied by a STATEMENT as set forth in 37 CFR §1.97(e); (2) -- AND --(3) It is accompanied by the \$180 fee set forth in 37 CFR §1.17(p).

X Fee Authorization. The Commissioner is hereby authorized to charge underpayment of any additional fees or credit any overpayment associated with this communication to Deposit Account No. 06-1325.

Date: March 16, 2004

Customer No. 23910 Fliesler Meyer LLP Four Embarcadero Center, Fourth Floor San Francisco, California 94111-4156 415/362-3800 Telephone Respectfully submitted,

Sheldon R. Meyer, Reg. No. 27,660

SRM/KLYCD-05008US1/IDS

(Substitute)

US DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE

Attorney Docket Number
KI VCD-05008HS

Serial No.

10/684,668

INFORMATION DISCLOSURE CITATION
BY APPLICANT

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Applicant Steve Mitchell

Filing Date

October 14, 2003

Group Art Unit 3738

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EXAMINER			DATE CONSIDERED		· ·			
EXAMINER: Initial if refere	ences considered, whether or not citation is in	conformance with	MPEP § 609; Draw line t	through citation if not in conformance and no	et considered. Inclu	ıde copy o		
his form with next communi	cation to applicant.							
1 = Copy not submitted bec	ause it was submitted in prior application	1	, filed	, 20 , and relied upon under 35 USC	δ120.			